

THE MARTHA'S VINEYARD COMMISSION

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MINUTES OF APRIL 6, 1989

MARTHA'S VINEYARD COMMISSION MEETING

The Martha's Vineyard Commission held a public hearing on Thursday, April 6, 1989 at 8:00 p.m. at the Commission's offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA, pursuant to Chapter 831, Acts of 1977, as Amended, Section 10 and Chapter 30A Section 2 of the Massachusetts General Laws. The purpose of the public hearing will be for the Commission to receive testimony and determine if the proposed regulations conform to the guidelines for development of the Wascosim's Rock District of Critical Planning Concern specified in the Commission's Designation of this District on May 12, 1988.

The District includes the specific area defined as follows:

In the Town of Chilmark beginning at the point where the 130 foot contour meets the 500 foot radius of Wascosim's Rock, northerly and southerly in the Town of West Tisbury along said 130 foot contour to the eastern most point where the contour crosses the 500 foot radius line from Wascosim's Rock and continuing along said radius into the Town of Chilmark to the point of origin.

Mr. Early, Chairman, read the Wascosim's Rock Public Hearing Notice, opened the hearing for testimony, described the order of the presentations for the hearing, and introduced Mark Adams, MVC Staff, to make his presentation.

Mr. Adams noted the general guidelines and proposed town regulations in the staff notes (available in their entirety in the DCPC file) and reviewed the location on an assessor's map. He stated that the regulations are designed to set some criteria for review and approval of development and they are essentially the same for both towns. The main values of this area are the cultural significance of this formation as an historic marker, the natural resource value of the ridge top, the geological significance of the formation, and the significant views to and from the ridge top. Mr. Adams then made note of the DCPC Management Plan approved by both town Conservation Commissions and highlighted topics covered by this plan and stated that the plan is available in its entirety in the DCPC file for Commissioners or public review. Mr. Adams then answered questions from the Commissioners.

Ms. Colebrook, Commissioner, asked if the stand of old Pine trees is located in the DCPC? The response was no. Discussion followed about the originally nominated boundary and the decision to increase it to

approximately 22 acres. Mr. Adams stated that the Conservation Commission will review the boundaries to make sure they are working effectively to protect the values.

Mr. Ewing, Commissioner, asked about the statement in Permitted Uses that no structures would be permitted above the 100' contour, some things can happen, i.e. outdoor recreation, agriculture, etc., what is the mechanism for these uses? Mr. Adams responded you would need permission of the landowners and if it is permitted under the by-law, you may want a Planning Board opinion, you wouldn't require a permit. Mr. Ewing then asked about the public access and the fact there is none now, isn't there an ancient way that runs into this site? Mr. Adams responded that there are several trails, for instance an eroded jeep path that goes to the top of the ridge, a deer trail, and trails that go into adjacent properties. No one has established the legal status of these trails but they were identified during the public hearing as being valuable by the towns. Mr. Ewing stated he heard that a trail led from downtown West Tisbury to this area. It was stated it came off the panhandle. Is this an established ancient way? Mr. Adams stated it was used as an equestrian trail in the past but again that is all under assumed permission of the land owners in the area. There are strong feelings that there should be no vehicular access to this site.

Mr. Fischer, Commissioner, stated that he sees no mention in the permitted uses of signage to educate those that will use this land. Mr. Adams stated that even though it is not specifically permitted this may be allowed.

When there were no further questions from Mr. Adams, Mr. Early called on Town Board testimony.

Virginia Jones, Chairman, Planning Board, West Tisbury, stated to answer Mr. Fischer questions we are now working on signage by-laws and they include provisions for signage in special districts.

Pam Goff, Chilmark Conservation Commission, stated that the stand of Pine trees mentioned are on private property belonging to Tea Lane Associates; the stone wall is the boundary.

Russell Walton, Planning Board, Chilmark, stated that they don't have specific sections for signage in special places, we do however have general regulations.

Mr. Early then called on public testimony.

Brendon O'Neill, Vineyard Conservation Society, gave an overview of conservation property in this area. He stated a lot of effort is being expended to try and make this area a green belt, wildlife corridor including the area in question tonight.

When there was no further testimony, Mr. Early closed the public hearing at 8:25 p.m.

The Martha's Vineyard Commission held a public hearing at 8:30 p.m. regarding the following Development of Regional Impact (DRI):

Applicant: Anne F. Vanderhoop
Aquinnah Realty Trust
P.O. Box 170
Gay Head, MA 02535

Location: Off State Road
Gay Head, MA

Proposal: Addition to an existing structure qualifying as a DRI since the proposal is greater than 1,000 square feet.

James Young, Chairman of the Land Use Planning Committee (LUPC), read the Aquinnah Public Hearing Notice, opened the hearing for testimony, described the order of the presentations for the hearing, and introduced Melissa Waterman, MVC Staff, to make her presentation.

Ms. Waterman reviewed staff notes (available in their entirety in the DRI file) using wall maps to show the site plan and give an orientation of the area and the DCPC districts in the area. She showed a video of the site depicting the patio constructed, the materials used, the area of the patio, the plantings done surrounding it, the lighting proposed, and the handicap access to the main Aquinnah shop. Correspondence was reviewed from the following people: Walter Delaney and Jeffrey Madison, Gay Head Board of Selectmen, dated October 17, 1988, including a letter from Mr. Rappaport, Town Counsel; and Marie Belain, dated October 25, 1988. She then answered questions from the Commissioners.

Ms. Colebrook asked if this was under Conservation Commission jurisdiction because it is within 200' feet of the water? Ms. Waterman stated that the Planning Board Review Committee has jurisdiction over the area within 200 feet of a bluff of 15 feet or greater. Ms. Colebrook then asked is it built? Ms. Waterman stated that the video showed an "as built" structure.

Ms. Medeiros, Commissioner, asked what the outside line depicted on the wall map? Ms. Waterman responded the edge of the Cliff.

Mr. Evans asked what the anticipated 50% increase in water eluded to by Mr. Healy represented? Ms. Waterman responded a change in design from the current 15 gpd to the Title V requirement of 35 gpd.

Mr. Ewing, Commissioner, asked if there was no public rest room now? Ms. Waterman stated there is one bathroom now and one is being constructed for handicap and other customer use. There was discussion about the provisions for handicap bathrooms as required by the Department of Public Health.

There were questions about the construction and drainage of the patio. Pictures were distributed to the Commissioners of the construction and Ms. Waterman stated that no drainage plans were submitted.

Mr. Fischer, Commissioner, asked about the statement in the Selectmen's letter that there was a possibility that the septic system was installed improperly, do we know why? The response was no.

When there were no further questions for Ms. Waterman; Mr. Young called on the applicant to make a presentation.

Mr. Russell Smith, agent for the applicant, stated that when the Vanderhoop's constructed this deck they did so under the mistaken idea that no building permits were necessary. The reasoning for this was that a deck had recently been built on adjacent property and no permit was required for that. The difference here is the height of the deck and that decides whether or not it is considered a structure, over 3 feet is considered a structure, and it therefore would require a building permit. We built this up using railroad ties, we cut off the crown a little and filled it in under the deck. The elevation above the existing grade is 2 1/3 feet but when you add the split rail fence it goes over the 3 foot limit. After the deck was built we were issued a cease & desist order and informed that we needed a permit from the Conservation Commission. I was asked to prepare a map of the area and although I am not a registered surveyor I produced a map showing elevations, the beach, the top of the bluff, the building and the new deck, which he put on the wall. Conservation Commission jurisdiction is within 100 feet of the bluff so this was out of their jurisdiction. However the Planning Board Plan Review Committee does have jurisdiction within 200 feet of the bluff so it is within their jurisdiction as well as in the Road District. The Conservation Commission had referred this to the MVC but after LUPC meeting and the DEQE site visit for the Notice of Intent it was determined that no permit was required from the Conservation Commission so the Planning Board Plan Review Committee referred it to the Martha's Vineyard Commission. He showed another drawing depicting the elevations of the deck and stated that it is highest at the front with the rear elevation being only 6". He went on to describe the materials used, the square footage, the lighting and the plantings and stated that the photos of last summer show the plantings in a healthy condition. The drainage is simple; it is higher in the middle so it drains on all sides. There was previously a problem with drainage and erosion around the existing building and this should dissipate that. Regarding the septic system, it was rebuilt within the last 2 years and although it is not up to Title V standards it functions adequately. Concerning the public bathrooms, the one existing was never open to bus tour people, they were asked to use the town facility. The town supplies rest rooms for all the shops in this area, the Aquinnah is the only one on private property. Patrons of the shop can use this bathroom by requesting the key from their waitress, there has been discussion of noting the existence of the bathroom on the menu. Mr. Smith stated that he would answer questions from the Commissioner and then Mr. Healy would speak about the septic system.

Mr. McCavitt, Commissioner, asked, so the deck was constructed because of a mistaken belief that it was not a structure? Mr. Smith responded that only things greater than 3 feet require a building permit. Mr. McCavitt asked if this was a town requirement? Mr. Smith responded it is a State code and that he was just addressing this in response to the Selectmen eluding that this was done in poor faith. Mr. McCavitt asked what the difference was between this septic system and a Title V? The response was the size of the leaching area, the tanks are the same. Mr. McCavitt then asked if any permits were obtained? Mr. Smith responded no, after the cease and desist order was issued we applied to the Conservation Commission but it was not their jurisdiction.

Ms. Scott, Commissioner, asked again about the drainage plan? Mr. Smith stated there is no formal plan, essentially the structure is higher in the middle so it drains in all directions. The applicant added that there is crushed stone under the deck.

Mr. Fischer stated that he remembers seeing sand being tapped in during construction so there must be a layer of sand too.

Mr. Young asked if any cement or grout was used on the masonry? The response was no.

Mr. Lee asked who issued the cease and desist order? The response was the building inspector.

When there were no further questions for Mr. Smith, Mr. Healy gave the following presentation:

Kent Healy stated that he used the number of seats as a base number for the septic capacity needs. There were 75 seats inside and 40 outside, since 10 seats were lost inside due to the addition of the bathroom there will be 65 seats inside, and due to the addition to the deck, 68 outside. Based on the assumption that due to inclement weather the deck seats will only be utilized 50% of the time the end result is 65 inside seats and 34 outside seats and this is the estimate I used to calculate the base water flow. My conclusion is that the increase in use is not significant, 5%. There are 2 1,000 gallon tanks, 1 for the kitchen and 1 for the bathroom, and a 12 foot x 8 foot leaching pit. He gave the following figures:

	To Meet Title V	Actual Capacity by his calculations
Absorption Capacity	850 gpd	550 gpd
Actual Use	3,300 gpd	350 gpd (based on past season)

He addressed the issue of losing cliff stability in relation to higher ground water levels and stated that the elevations of ground water usually rise due to rain. He went on to discuss the slide behind the

structure, and the increased potential for instability if a Title V system were installed when only approximately 1/10th of their figure was actually used. He stated that we should be encouraging conservation of water usage, not allowing for a greater potential use. He stated that the best way to encourage decreased usage and monitor the usage is with a water meter that could be monitored and recorded daily. The liquid level in the leaching pit could be checked and if an emergency does exist they could go to weekly pump outs. One pump out per week would eliminate all anticipated usage. Mr. Healy then addressed Commissioners' questions.

Mr. McCavitt asked, don't you estimate actual use will be increased if the new toilet is installed and the patrons are informed of its existence on the menu? Mr. Healy responded that he doesn't anticipate any additional water usage. He stated that the system described is in place and we don't propose changing it, it does have a cushion now between the 350 gpd actually used and the absorption capacity of 550 gpd.

Mr. Filley asked what the potential is for installing another pit? Mr. Healy responded that he had done several test pits and there is an area suitable for another leaching pit.

Mr. Ewing asked if a leaching trench instead of a pit would help increase the absorption capacity? Mr. Healy stated it wouldn't make much difference.

Mr. Lee asked, regarding the runoff in the area of the terrace can you project what would happen with weather like it was today, extremely wet, and no dry well drainage? Mr. Healy responded that in listening to how the deck was constructed I guess this is a very good dry well with part being crushed stone I would anticipate no runoff. Mr. Smith stated that he had inspected the site after construction last summer and he saw no evidence of runoff or troughs that were created.

Mr. Ewing asked the applicant if he would be willing to install a water meter? Mr. David Vanderhoop stated he thinks it is the best way to regulate water usage and that one would have already been installed if they had thought of it earlier.

Mr. Young asked Mr. Healy to go over the number of seats again. You eluded that the inside would be decreased to 65 and the outside increased to 68 and that because of weather conditions you anticipate only 34 outside seats would be used, but what about during a stretch of good weather when all seats might be utilized for a week or more at a time. There is the potential for 133 seats and this could be a massive increase in the water used and that would far exceed the capacity of the system. How do you recommend reducing the damage to the Cliffs while still meeting the town's desire for a bathroom. Mr. Healy stated that it would be a simple process to pump out the system in such instances. It is a common solution. The monitoring device would be a system alert.

Mr. Vanderhoop stated that the point as he knows it is that the existing system won't affect the cliff as much as installing a new system would.

When there were no further presentations by the applicant, and no other questions for the applicant or his agents, Mr. Young called on town board testimony.

Mr. Jerry Weiner, Building Inspector and Board of Health Agent, Town of Gay Head, stated that in addressing the use of pump outs, we have a system designed to use pumping as an emergency and have arrangements with other towns to accept liquid effluent from emergency needs. It is not intended to be used on a regular basis, only as a safeguard. Mr. Weiner further stated that this project was brought to his attention when it was near completion.

Mr. Ewing asked Mr. Weiner can't you guarantee that the effluent can be transported? Mr. Weiner responded that we can't approve a system without our own place to dump the effluent, the arrangements with other towns is in an emergency situation. Mr. Ewing stated but this system is existing? Mr. Weiner stated that if it failed it would be entitled to the same procedures as others. Mr. Ewing then asked if this one had ever been pumped? Mr. Luther Madison, applicant, responded this new system has never been pumped; it has worked fine since installation.

When there were no other members of Town Boards to give testimony, Mr. Young called on public in favor of the proposal, there was none. He then called on public in opposition.

Marc Widdiss stated that it is difficult to speak in opposition to this project when he knows the people from the Aquinnah so well and they usually represent themselves well. Unfortunately, in this occasion I think that several decisions were made that are in direct conflict with the Town's zoning. I am not certain what can be done about it. If indeed it was decided that the construction needs to be removed it may be more damaging than the original construction. You may be wasting your time by taking the septic as the main concern, you should be looking at what has been done in regard to the laws regulating that area and look at what is available to rectify the situation. This is not a good situation at all and it is difficult to call. I'd have a hard time deciding whether to tear into such a fragile area to clear this up. I think it was however a bad decision to go ahead as they did. If the zoning was followed something less objectionable might have been created.

Mr. Vanderhoop stated that we have always been conservative with water usage. In dealing with the septage by putting in a meter it won't change the way we operate water conservation wise.

Mr. Filley asked how much larger this deck is in comparison to the old one? Mr. Smith responded approximately 3-4 times larger but this is an additional deck not a replacement of the old one. Mr. Filley then asked if there were any additional devices that could be used to

reduce the flow. Mr. Healy responded that they already had a low flow toilet and had recently installed a dishwasher that recycled its own water, there are many such devices but I believe the best way to reduce usage is to be conservative and monitor usage.

Mr. Morgan asked if there were any planting plans for the side of the deck near the owners' parking? Mr. Madison responded that they plan to plant rose ramblers to hide the timber but no shrubbery.

Mr. Evans asked about the Selectmen's concern regarding increasing the size of the parking area. Do you plan to expand and what is the existing size of the lot now? Mr. Madison responded that there are now 12-15 spaces provided. We had planned to enlarge the lot by 9-10 spaces. Mr. Young asked what permit would be required for such an expansion? The applicant responded he did not know.

Ms. Medeiros asked if there was any way to make the patio handicap accessible? The applicant responded not without additional construction and went on to state that the old deck was handicap accessible just not the new patio. Ms. Medeiros asked concerning water usage the Town of Tisbury forces restaurants to use paper plates, is it within your purview to do the same? Mr. Weiner responded that is an excellent suggestion and certainly any suggestions other towns have would be considered. Since we have no commercial district there are no guidelines for restaurant usage, this is the only restaurant in Gay Head.

Mr. Lee asked how the applicant envisioned the seating plan on the deck; are you looking for dining patrons rather than casual, limited time patrons and how will you regulate access to the deck? We all know what happens when these tour buses pull up; do you have a plan? Ms. Anne Vanderhoop responded I do have a plan. It is my intent to make it reservation only for 28 seats, when the buses come in they only have 25 minutes so there will be a chain, as usual, across the dining area to prohibit people from rushing in to use the bathroom, these people can get take out at the front or the window. The patio will be used for luncheon and dining seating only. We have lost 10 inside seats in the alcove to make the handicap bathroom and we will never make that up. She went on to state that she wonders how many days people will be allowed to sit out on the patio with the wind and rain that is common in this area and stated she would keep a record. She went on to state that another fence would be constructed near the existing parking spaces in the front area of the patio and a sign would be erected stating exit only.

Ms. Bryant asked what is the handicap access now? Am I to understand that you will have two seating policies, one for general public and one for handicap patrons? Ms. Vanderhoop stated the main point is that the buses don't have time to use this facility. Ms. Vanderhoop added that they do entertain kids from Jabberwocky every year and the room is filled with wheelchairs. There was further discussion on handicap access and the existing blacktop path. Mr. Widdiss stated concerning the handicap access to the cliff area, the town has tried to get the State, who owns the loop area, to widen or provide another handicap access. It was probably not high on their priority list.

Mr. McCavitt, Commissioner, asked the building inspector what the cease and desist order was based on? Mr. Weiner responded technically the zoning by law addressing the definition of a structure versus a terrace. If it is over 3 ft, and this will be because the rail is required, then it is no longer a terrace; it is a structure. As you can see in Mr. Smith's drawing one side is higher while the other is near grade. So there is a little ambiguity here in that any materials giving support is a structure, but if it were under 3 feet it would be a terrace. Mr. McCavitt then inquired about permits necessary for other work in the building, i.e. toilet installation or the construction of the bathroom? Mr. Weiner responded that under Title V the septage required is based on the number of seats so if the plumbing permit is taken out that is all you need unless you make significant structural changes, a partition wall is not a great deal of concern. There was no additional square footage created and the proper permit has been taken out.

Jerry Weiner stated that in response to what Ms. Waterman said concerning violation of zoning by-law Section 3.30 (NOTE: This was actually a quote from the Selectmen's letter) regarding the issue of a sleeping area for the night watchman, since we only have rural residential zoning there is nothing to address this. The bed is a lesser use and should not be an issue in my opinion. He went on to state that the Vanderhoops sleep here in the summer but all washing and showering is done at their year-round home.

When there were no further questions or closing statements from the applicant, Mr. Young closed the public hearing at 10:00 p.m. with the record to remain open for two weeks since next week the Gay Head Cliff's DCPC public hearing would be held.

After a brief recess Mr. Early convened the Special Meeting of the Commission at 10:03 p.m. and proceeded with agenda items.

ITEM #1 - Chairman's Report

Mr. Early stated it is great to be back and thanked the Vice-Chairman for his efforts in his absence.

ITEM #2 - Old Business

Mr. Early introduced Carol Borer, Executive Director, to give a report on the information requested by the Commissioners at the last meeting regarding the previous SBS DRI.

Ms. Borer displayed the plan on the wall and stated that the Executive Secretary had transcribed the minutes of the public hearing and the discussion period prior to vote almost word for word and I have reviewed them. There was much discussion about the Planning Board letter of August 12, 1985 to the Board of Selectmen and I will read an excerpt for you, Access/Egress: The access/egress point on the State Highway appears to be the best choice, considering the road curve.

Radiuses and a hard surfaced apron must conform to Town standards; the access/egress point will also require approval from the State DPW. The access/egress shown in the rear and at the Old Holme's Hole Road is not acceptable. The road is not 'adequate and proper' for the use. Also, the Town has voted to purchase this "road" "as land and not as a way"; acquisition is now in process. The plan should be revised to delete the access/egress point on the Old Holme's Hole Road. Ms. Borer continued by stating that basically the Commission approved the plan as presented and allowed the Planning Board to deal with the access/egress. Another plan approved by the Planning Board didn't show this rear access/egress.

Discussion followed on the approved plan, the fact that the existing building did not meet the specifications on the plan, the aborted construction on one of the two rear buildings, the fact that the Town is now responsible for actions on this access/egress, and that the Commission will be able to review this and other issues brought up tonight when and if construction on the rear two buildings is resumed.

ITEM #3 - Minutes of March 30, 1989

It was motioned and seconded to approve the draft minutes with the following correction: Page 8, paragraph 4, line 2, change 12,000 to 1,200 sq. ft. This motion passed with no opposition, one abstention, Early. (Harney was in favor.)

ITEM #4 - Committee Reports

Mr. Young, Chairman of LUPC, reported that there was no meeting this week. The meeting next week will have 6 items on the agenda; Wesley Arms and Swan Neck DRIs, which are both due for an oral vote on the 20th, M.V. Hospital, Marshall & Lewis Subdivision, Langmuir Subdivision, and Red Farm Modification DRIs.

Ms. Skiver, MVC Staff, reported that the Joint Transportation Committee (JTC) had met on the 29th and the agenda items included the moped bill, the JTC sent a letter supporting the bill written by the MVC, the Origin/Destination study conducted by the MVC last summer, the results will be ready in approximately 2 weeks, and the decision to send a representative to the Town of Tisbury's Parking and Traffic Committee.

Ms. Skiver then reported that the Planning and Economic Development (PED) Committee met to review the Oak Bluffs Planned Development District Committee. There are 19 members who will be divided into 6 subcommittees. There will be a public hearing held in 2 weeks at the town hall by this Committee to gain public input. PED reviewed the actions and goals of this Committee and began discussion on a management plan.

Ms. Waterman reported on the Lagoon Pond DCPC by stating that Mr. DeBettencourt was somewhat concerned that the district didn't include 1,500 feet around the Brush Pond and contended that since the pond is a part of the Lagoon it should be included in its entirety rather than

just falling within the 1,500 foot radius around the main lagoon. The Board of Health wants the boundaries revised to include Brush Pond. This would require a public hearing. There was discussion regarding why this Pond should be included and the delicate and troubled nature of the Pond. Mr. Young suggested that this be brought up at the 6 month review with any other recommendations the review committee deems necessary.

Ms. Borer reported that the Gay Head DCPC Committee had met Monday and reviewed the video and discussed the previous site visit. The public hearing will be held next Thursday, the 13th, at 8:00 p.m. at the Gay Head Town Hall. Several organizations have been contacted and will be sending representatives including: The Department of the Interior, the National Natural Landmark Program, the Coast Guard, the Tribal Council, the Town Boards, Police Department, and William Marks along with many others.

Ms. Harney reported that the Comprehensive Planning Advisory Committee would meet at 5:30 p.m. next Thursday, there was discussion on the best location for the meeting and it was decided to meet at the Commission offices and finish up by 7:00 p.m. to allow travel time to Gay Head.

Mr. Ewing reported that the Edgartown Ponds DCPC Committee had met tonight to review an exemption application for a 2 bedroom addition to an existing 6 bedroom home and an upgrading of the septic system on a 57 acre lot. The house is 1,000 ft. from the pond and at a 20 feet elevation so we approved the exemption. There will be a site visit tomorrow at 3:00 p.m. to look at the surrounding area from a boat. The public hearing will be held on April 27th at the Old Whaling Church in Edgartown. The next meeting will be announced as soon as the time and place can be determined.

ITEM #5 - Possible Vote - Wascosim's Rock DCPC Regulations

Mr. Early took the agenda out of order and addressed the possible vote on the Wascosim's Rock DCPC regulations for the towns of West Tisbury and Chilmark.

It was motioned and seconded to approve the draft regulations as presented. There was discussion on the foot access and questions if this was the strongest wording/method possible to obtain such access. Mr. Adams, MVC Staff, stated that the land was privately owned and the only two ways to obtain access, short of purchasing, was to encourage it through strong evaluations by the towns or to include it through DRI review. The motion to approve as presented passed with a vote of 15 in favor, 0 opposed, 1 abstention, Medeiros. (Harney was in favor.)

ITEM #5 - Possible Vote - Vineyard Crossing DRI, Town of Tisbury

Mr. Early stated that there was normally an agenda item for Discussion prior to the vote so he would open this item for discussion and as usual this discussion period is for Commissioners only with public

input being only at the request of a Commissioner through the chair. He then introduced Ann Skiver, MVC Staff, to give a staff update.

Ms. Skiver displayed 2 plans on the wall, 1 being the plan that the Commission held the public hearing on and the second being the plan submitted by the applicant after the public hearing and LUPC discussion. She placed an overlay on the second plan to show the variations in lots and open space. She then reviewed the staff update and read correspondence received from Mr. Wallace, dated April 5, 1989 (available in their entirety in the DRI file).

When there were no questions for Ms. Skiver, Mr. Early opened the floor for general discussion.

Mr. Young stated that this subdivision points out one of the dilemmas we have, which is density versus affordable housing. My concern all along has been the density, not only because of the nitrogen loading to the pond but of more concern is the effect on the traffic that will be generated and the burden to the Town infrastructure that results from this kind of density. I am also concerned with a coherent transition from the density of the existing Leland subdivision and the clustered Tashmoo Woods development. This new plan does decrease the density, improve the power line easement, increase the open space, and produces 20 market lots and 3 affordable housing lots and in addition to creating these 3 affordable housing lots, the 20 lots remaining, while not technically affordable housing by the Commission standards, will be available to a segment of the housing market that is also in need. The question is if these provisions offset the development problems.

Mr. Morgan stated that he shares many of Mr. Young's concerns but he likes the plan, specifically the northwest corner and the additional 50 feet added to the easement. Maybe 18 market lots and 3 affordable housing lots would be very palatable, but 20 and 3 is not. If we do vote on 18 and 3 we should suggest which lots to strike out. I agree this does fit a segment of society in need, however, I am not concerned with the transition between the existing subdivision and the Tashmoo Woods development. The town has drawn a zoning line and agreed on it. I like the upgrading the applicant has done to the original subdivision also, I like many things and would vote on a 18 market lot, 3 affordable housing lot proposal.

Ms. Eber stated that she agrees with Mr. Young. She doesn't see how the size of the lots would affect the price of the lots as was suggested by the applicant. This is a very desirable location and I wonder how affordable these lots are going to be.

Ms. Harney asked the applicant what the price range will be? Mr. Wallace stated that a lot has to do with financing and the additional fees that have and will be levied because of the delays in construction. It also depends on the growth and rate of sales. We hope to have at least 50% available at less than market value. Many of the Leland rents are below market rate and he stated their continuing desire to provide affordable housing to a segment of the population.

Ms. Medeiros asked in conjunction to Mr. Wallace's response, how many lots can be sold per year according to Tisbury by-laws? Ms. Eber responded 20% but the Planning Board can reduce this to 10%.

Ms. Bryant stated there was earlier discussion about the affordable housing lots being exempt from Association fees for 2 years, can we stipulate in a condition that this should be changed? The response was yes. There was discussion if this would stigmatize the affordable housing residents.

Mr. Morgan stated that the Leland subdivision might be the only place I have seen that is advertised and sold at very reasonable prices. I would be disappointed if we voted on it at this number and it doesn't turn out as the applicant has presented.

Mr. Lee asked how the power lines would be serviced if the dirt road will be removed? The applicant responded that the area will be fenced to keep vehicles off the area and grass will be planted in the dirt strip, but the Com-Electric Company will have keys to get into the area and it will not be planted with anything that might interfere will power line servicing.

When there was no further discussion Mr. Early stated he would entertain a motion for a possible vote.

It was motioned and seconded to approve the subdivision with the following condition: 18 saleable lots and 3 affordable housing lots to be deeded to the Duke's County Regional Housing Authority (DCRHA).

It was motioned and seconded to amend the conditions to include that the 3 affordable housing lots to be deeded to the DCRHA be exempted from Homeowners Association dues in perpetuity.

There was discussion on why the lots should be deeded to the DCRHA instead of the Town of Tisbury, the lack of agreement between the two on affordable housing policies, the fact that the deed would not be deeded to the Town according to their policy but noted on the deed as affordable housing in perpetuity and the developer would deed to the selected applicants, the fact that the Commission has on several previous decisions deeded lots to the DCRHA, and that this would help move the DCRHA into a position of effectiveness and move away from the youth lot mentality. It was decided that the motion should remain as worded, affordable housing lots to be deeded to the DCRHA.

Ms. Eber stated that she would like to see 14 saleable lots and 3 affordable housing lots. Discussion followed focusing on the inclination and necessity of charging higher prices for lower density developments and the possible detriments of reducing the density any lower.

When there was no further discussion Mr. Early called a roll call vote.

The motion to approve the Vineyard Crossing DRI with conditions being 18 saleable lots and 3 affordable housing lots deeded to the DCRHA and that the 3 affordable housing lots be exempted from Homeowner Association fees in perpetuity passed on a vote of 10 in favor, 1 opposed, 4 abstentions, Evans, Medeiros, Sibley, McCavitt. (Harney was in favor.)

ITEM #6 - New Business - There was none.

ITEM #7 - Correspondence

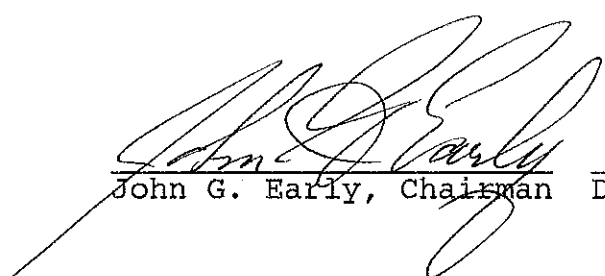
Mr. Early stated that correspondence would be addressed if we voted to enter into Executive Session under Item #8.

ITEM #8 - Possible Vote to enter into Executive Session regarding litigation.

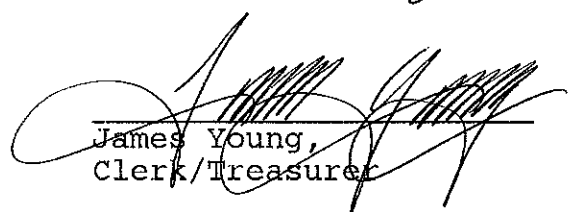
It was motioned and seconded to enter into Executive Session and not reconvene the Special Meeting. This motion carried with a vote of 14 in favor, 0 opposed, 1 abstentions (Sibley).

The Special Meeting was adjourned at 11:20 p.m.

ATTEST


John G. Early, Chairman

4/13/89
Date


James Young,
Clerk/Treasurer

4/13/89
Date

Attendance:

Present: Bryant*, Colebrook, Early, Eber, Evans, Ewing, Filley**, Fischer, Lee, Medeiros, Morgan, Scott, Sibley, Wey***, Young, McCavitt, Harney.

Absent: Jason, Delaney, Allen, Geller.

* Ms. Bryant arrived at 8:20 p.m.

** Mr. Filley left at 10:55 p.m.

*** Mr. Wey arrived at 9:05 p.m.